

ESTTA Tracking number: **ESTTA511656**

Filing date: **12/18/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	OMS Investments, Inc.
Granted to Date of previous extension	12/19/2012
Address	10250 Constellation Blvd., Suite 2800 Los Angeles, CA 90067 UNITED STATES
Attorney information	John Gary Maynard, III Hunton & Williams LLP 951 East Byrd Street Riverfront Plaza - East Tower Richmond, VA 23219-4074 UNITED STATES HWRITM@hunton.com

### Applicant Information

Application No	85587207	Publication date	08/21/2012
Opposition Filing Date	12/18/2012	Opposition Period Ends	12/19/2012
Applicant	Royal-Gro, LLC 4618 South Florence Avenue Tulsa, OK 74105 UNITED STATES		

### Goods/Services Affected by Opposition

Class 001. First Use: 2012/02/08 First Use In Commerce: 2012/03/15  
All goods and services in the class are opposed, namely: Fertilizers

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	668868	Application Date	02/28/1958
Registration Date	10/28/1958	Foreign Priority Date	NONE
Word Mark	MIRACLE-GRO		
Design Mark			
Description of Mark	NONE		


Goods/Services	Class U010 (International Class 001). First use: First Use: 1951/04/15 First Use In Commerce: 1951/04/15 WATER SOLUBLE PLANT FOOD		
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U.S. Registration No.	1223038	Application Date	10/24/1980
Registration Date	01/11/1983	Foreign Priority Date	NONE
Word Mark	MIRACLE-GRO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1980/10/01 First Use In Commerce: 1980/10/01 Fertilizer in the Form of Spikes for Trees and Shrubs		


U.S. Registration No.	2618699	Application Date	04/14/2000
Registration Date	09/10/2002	Foreign Priority Date	NONE
Word Mark	MIRACLE-GRO GARDEN WEED PREVENTER		
Design Mark	<p style="text-align: center;"><b>MIRACLE-GRO GARDEN WEED PREVENTER</b></p>		
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2001/03/01 First Use In Commerce: 2001/03/01 Fertilizers for domestic use Class 005. First use: First Use: 2001/03/01 First Use In Commerce: 2001/03/01 Herbicides for domestic use		

U.S. Registration No.	2820953	Application Date	03/04/2003
Registration Date	03/09/2004	Foreign Priority Date	NONE
Word Mark	MIRACLE-GRO		
Design Mark			
Description of Mark	The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a green leaf dotting the "i" in "MIRACLE-GRO" and a yellow ring in the bullseye.		


Goods/Services	<p>Class 001. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells</p> <p>Class 005. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Herbicides for domestic use</p> <p>Class 021. First use: First Use: 2000/12/31 First Use In Commerce: 2000/12/31 Garden feeders, namely, containers designed to hold plant food and are used to feed and water plants</p> <p>Class 031. First use: First Use: 2001/01/00 First Use In Commerce: 2001/01/00 Sphagnum peat moss</p>
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U.S. Registration No.	2822655	Application Date	03/04/2003
Registration Date	03/16/2004	Foreign Priority Date	NONE
Word Mark	MIRACLE-GRO		
Design Mark			
Description of Mark	The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a leaf dotting the "i" in "MIRACLE-GRO" and a ring in the bullseye.		
Goods/Services	<p>Class 001. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells</p> <p>Class 005. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Herbicides for domestic use</p> <p>Class 021. First use: First Use: 2000/12/31 First Use In Commerce: 2000/12/31 Garden feeders, namely containers designed to hold plant food and are used to feed and water plants</p> <p>Class 031. First use: First Use: 2001/01/00 First Use In Commerce: 2001/01/00 Sphagnum peat moss</p>		

U.S. Registration No.	3180531	Application Date	12/30/2005
Registration Date	12/05/2006	Foreign Priority Date	NONE
Word Mark	MIRACLE-GRO ORGANIC CHOICE		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 2003/03/31 First Use In Commerce: 2003/03/31 Fertilizers for domestic use, potting soil, blood meal, and bone meal

U.S. Registration No.	1378721	Application Date	07/17/1985
Registration Date	01/21/1986	Foreign Priority Date	NONE
Word Mark	EARTHGRO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1981/08/00 First Use In Commerce: 1981/08/00 COW MANURE, COMPOSTED COW MANURE, DEHYDRATED COW MANURE, POTTING SOIL		

U.S. Registration No.	3917281	Application Date	01/19/2006
Registration Date	02/08/2011	Foreign Priority Date	NONE
Word Mark	GARDEN GRO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2008/02/09 First Use In Commerce: 2008/02/09 fertilizers		

U.S. Registration No.	3828745	Application Date	11/30/2007
Registration Date	08/03/2010	Foreign Priority Date	NONE
Word Mark	IT'S GRO TIME		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 2008/02/00 First Use In Commerce: 2008/02/00 Soil amendments, soil conditioners, and soil improving agents for domestic use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam

U.S. Registration No.	4049881	Application Date	01/07/2010
Registration Date	11/01/2011	Foreign Priority Date	NONE
Word Mark	EXPAND 'N GRO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2011/03/14 First Use In Commerce: 2011/03/14 Potting soil; planting soil; growing media for plants; soil amendments and conditioners; plant food; fertilizers		

Attachments	76027638#TMSN.gif ( 1 page )( bytes ) 76496455#TMSN.gif ( 1 page )( bytes ) 76496458#TMSN.gif ( 1 page )( bytes ) 78782928#TMSN.jpeg ( 1 page )( bytes ) 76653762#TMSN.gif ( 1 page )( bytes ) 77341556#TMSN.jpeg ( 1 page )( bytes ) 77907119#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition - ROYAL-GRO and Design.pdf ( 31 pages )(1263485 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/John Gary Maynard, III/
Name	John Gary Maynard, III
Date	12/18/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 85/587,207  
Published in the *Official Gazette* on August 21, 2012  
Mark: ROYAL-GRO

Oms Investments, Inc.,	)	
	)	
Opposer,	)	Opposition No. _____
	)	
	)	
v.	)	
	)	
Royal-Gro, LLC	)	
	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

Oms Investments, Inc., a corporation organized and existing under the laws of Delaware, with an office at 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067 (“Opposer”), believes it will be damaged by registration of the mark ROYAL-GRO as shown in Application Serial No. 85/587,207, and hereby opposes its registration pursuant to 15 U.S.C. §§ 1051 *et seq.*, including specifically 15 U.S.C. § 1063.

This Notice of Opposition has been timely filed. As grounds for its opposition, Opposer alleges as follows:

1. Upon information and belief, applicant Royal-Gro, LLC is a limited liability company in Oklahoma with a mailing address of 4618 South Florence Avenue, Tulsa, Oklahoma 74105 (“Applicant”).
2. As evidenced in Application Serial No. 85/587,207, Applicant seeks to register the mark ROYAL-GRO for “fertilizers” in International Class 001 (the “Applied-For Mark”).

3. Opposer, through its predecessors in interest and affiliates, has used in commerce its family of GRO marks, including its famous and distinctive MIRACLE-GRO mark, since 1951. Over the years, the marks have been used on and in connection with fertilizer, grass seed, and a variety of other lawn and garden products and services. Opposer owns several federal trademark registrations incorporating its GRO marks as reflected in the following representative registrations (“Opposer’s Marks”):

Mark	Reg. No..	Goods/Services
MIRACLE-GRO	0,668,868	International Class 10: Water soluble plant food.
MIRACLE-GRO	1,223,038	International Class 1: Fertilizer in the form of spikes for trees and shrubs.
MIRACLE-GRO GARDEN WEED PREVENTER	2,618,699	International Class 1: Fertilizers for domestic use. International Class 5: Herbicides for domestic use.
MIRACLE-GRO & Design	2,820,953	International Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. International Class 5: Herbicides for domestic use. International Class 21: Garden feeders, namely, containers designed to hold plant food and are used to feed and water plants. International Class 31: Sphagnum peat moss.
MIRACLE-GRO & Design	2,822,655	International Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. International Class 5: Herbicides for domestic use. International Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. International Class 31: Sphagnum peat moss.
MIRACLE-GRO ORGANIC CHOICE & Design	3,180,531	International Class 1: Fertilizers for domestic use, potting soil, blood meal, and bone meal.
EARTHGRO	1,378,721	International Class 1: Cow manure, composted cow manure, dehydrated cow manure, potting soil.



Mark	Reg. No..	Goods/Services
GARDEN GRO	3,917,281	International Class 1: Fertilizers.
IT'S GRO TIME	3,828,745	International Class 1: Soil amendments, soil conditioners, and soil improving agents for domestic use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam.
EXPAND 'N GRO	4,049,881	International Class 1: Potting soil; planting soil; growing media for plants; soil amendments and conditioners; plant food; fertilizers.

True and correct copies of the electronic records for these registrations printed from the United States Patent and Trademark Office's ("USPTO") Trademark Applications and Registrations Retrieval ("TARR") online database are attached hereto as Exhibit A. Each of the registrations noted above were issued on the Principal Register and are presently in full force and effect. Notably, Registration Nos. 0,668,868; 1,223,038; 2,618,699; 2,820,953; 2,822,655; 3,180,531; and 1,378,721 are incontestable.

4. Opposer's Marks are valid and distinctive.

5. Opposer has expended and continues to expend substantial time, money and effort in advertising and promoting Opposer's Marks to identify itself as the source of its goods and services, such as in newspapers, magazines, sponsorships, and through nationally broadcast television and radio commercials. As a result, Opposer's Marks are some of the most recognizable and valuable brands in the lawn, garden and horticulture industry. Moreover, due to the national, and indeed, worldwide consumer recognition of Opposer's Marks, consumers have come to recognize "GRO" and "MIRACLE-GRO" as also symbolizing the goodwill inherent in Opposer's Marks, and further, associate GRO and MIRACLE-GRO solely with Opposer and its line of high quality products.

6. No issue of priority exists with respect to Opposer's first use of one or more of Opposer's Marks as set forth above and the Applied-For Mark. Opposer has used, promoted and advertised its goods and services under one or more of Opposer's Marks in commerce for over 80 years, since at least as early as 1928. Conversely, Applicant alleges commencing use of the ROYAL-GRO mark in commerce this year, which means that Opposer has priority over Applicant with respect to the Applied-For Mark.

7. The Applied-For Mark is confusingly similar to Opposer's Marks because it is similar in appearance, sound and commercial impression, pursuant to 15 U.S.C. § 1052(d). Among other things, the Applied-For Mark contains the distinctive component "GRO," which is a prominent element in Applicant's mark and which is identical to the famous and distinctive "GRO" element in Opposer's Marks. As a result, the Applied-For Mark shares a similar commercial impression with Opposer's Marks, thereby creating a risk of consumer confusion. Specifically, consumers may believe, incorrectly, that the Applied-For Mark is an extension of Opposer's family of GRO marks. The likelihood of confusion between the Applied-For Mark and Opposer's Marks is further exacerbated because the goods sold under the Applied-For Mark, namely fertilizers, are identical to the products sold under Opposer's Marks and there is likely to be direct overlap in the parties' marketing, trade channels and targeted consumers.

8. Given the goodwill and public recognition arising from the association of Opposer's Marks with Opposer, consumers are likely to believe that Opposer has licensed, approved or otherwise authorized Applicant's use of the Applied-For Mark when it has not.

9. Applicant's use and registration of the Applied-For Mark will also cause dilution by tarnishment and dilution by blurring of Opposer's famous marks, whose fame was established well before Applicant first used the Applied-For Mark, as prohibited by 15 U.S.C.

§ 1125(c).

10. The maturation of Applicant's application into registration will cause a likelihood of confusion, mistake or deception with respect to the source or origin of Applicant's goods. Consumers will erroneously believe that Applicant's goods are produced by or associated with, Opposer.

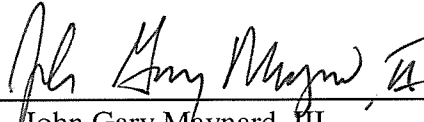
11. In summary, registration of the Applied-For Mark would be incorrect and improper in view of the requirements of the Trademark Act of 1946, as amended, including specifically but not limited to, the provisions of 15 U.S.C. §§ 1051, et seq.

WHEREFORE, Opposer prays that this Opposition be sustained, and that registration to Applicant for the mark ROYAL-GRO as shown in Application Serial No. 85/587,207 for fertilizers in International Class 001 be denied.

Opposer submits this Notice of Opposition via the e-filing procedure of the Trademark Trial and Appeal Board ("the Board"), and hereby advises the Board that it may debit the Deposit Account No. 083436 of Hunton & Williams LLP for the appropriate filing fee.

Dated: December 18 2012

Respectfully submitted,

By:   
\_\_\_\_\_  
John Gary Maynard, III

Bradley W. Grout

Elizabeth Lim Brooks

Hunton & Williams LLP

951 East Byrd Street

Riverfront Plaza, East Tower

Richmond, VA 23219-4074

Telephone (804)788-8200

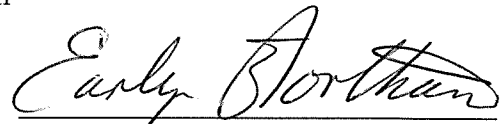
*Attorneys for Opposer,*

*OMS Investments, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing NOTICE OF OPPOSITION and exhibits thereto have been properly served upon counsel of record for Applicant, via U.S. first class mail, postage prepaid, on this 18<sup>th</sup> day of December, 2012.

Debbie Branch  
4618 S. Florence Ave  
Tulsa, OK 74105-5216  
Deranch33@aol.com

  
Early Wortham

STATUS

DOCUMENTS

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Print

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Mark: MIRACLE-GRO

US Serial Number: 72046856

Application Filing Date: Feb. 28, 1958

US Registration Number: 668868

Registration Date: Oct. 28, 1958

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Jul. 23, 2008

**Mark Information**[expand all](#)

Mark Literal Elements: MIRACLE-GRO

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

For: WATER SOLUBLE PLANT FOOD

International Class: 001

U.S Class: 010 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 15, 1951

Use in Commerce: Apr. 15, 1951

**Basis Information (Case Level)**

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

**Current Owner(s) Information**

Owner Name: OMS INVESTMENTS, INC.

Owner Address: 10250 Constellation Boulevard Suite 280  
Los Angeles, CALIFORNIA 900676228  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

**Attorney/Correspondence Information****Attorney of Record**

Attorney Name: Aimee A. Zaleski

Docket Number: 08-0506-IP

**Correspondent**

**Correspondent** Aimee A. Zaleski  
**Name/Address:** The Scotts Company LLC  
14111 Scottslawn Road  
Marysville, OHIO 43041  
UNITED STATES

**Phone:** 937-644-7667

**Correspondent e-mail:** [trademarks@scotts.com](mailto:trademarks@scotts.com)

**Fax:** 937-644-7568

**Correspondent e-mail** Yes

**Authorized:**

**Domestic Representative - Not Found**

### Prosecution History

Date	Description	Proceeding Number
Jul. 22, 2010	NOTICE OF SUIT	
Jan. 16, 2009	CASE FILE IN TICRS	
Jul. 23, 2008	REGISTERED AND RENEWED (THIRD RENEWAL - 10 YRS)	60132
Jul. 23, 2008	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jul. 22, 2008	ASSIGNED TO PARALEGAL	60132
Jul. 10, 2008	TEAS SECTION 8 & 9 RECEIVED	
Jan. 25, 1999	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	
Oct. 28, 1998	REGISTERED - SEC. 9 FILED/CHECK RECORD FOR SEC. 8	
Oct. 28, 1978	REGISTERED AND RENEWED (FIRST RENEWAL - 20 YRS)	

### Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

**Renewal Date:** Oct. 28, 2008

### TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** SCANNING ON DEMAND

**Date in Location:** Jan. 16, 2009

### Assignment Abstract of Title Information

**Summary**

**Total Assignments:** 5

**Conveyance Filter**

**Registrant:** STERN'S NURSERIES, INC.

STATUS DOCUMENTS

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Mark: MIRACLE-GRO

US Serial Number: 73283281

Application Filing Date: Oct. 24, 1980

US Registration Number: 1223038

Registration Date: Jan. 11, 1983

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Mar. 22, 2003

Publication Date: Oct. 19, 1982

**Mark Information**

expand all

Mark Literal Elements: MIRACLE-GRO

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

**Related Properties Information**Claimed Ownership of US 06688680, 11419430, and others

Registrations:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: Fertilizer in the Form of Spikes for Trees and Shrubs

International Class: 001 - Primary Class

U.S Class: 010

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 01, 1980

Use in Commerce: Oct. 01, 1980

**Basis Information (Case Level)**

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

**Current Owner(s) Information**

Owner Name: OMS INVESTMENTS, INC.

Owner Address: 100 WILSHIRE BLVD., SUITE 1230  
SANTA MONICA, CALIFORNIA 90401  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where  
Organized: DELAWARE



**Attorney/Correspondence Information****Attorney of Record****Attorney Name:** LAWRENCE E. ABELMAN**Correspondent****Correspondent Name/Address:** LAWRENCE E ABELMAN  
ABELMAN FRAYNE & SCHWAB  
150 E 42ND ST  
NEW YORK, NEW YORK 10017-5612  
UNITED STATES**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Jul. 22, 2010	NOTICE OF SUIT	
Apr. 11, 2008	CASE FILE IN TICRS	
Mar. 22, 2003	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
Mar. 22, 2003	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jan. 06, 2003	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Jan. 06, 2003	PAPER RECEIVED	
May 22, 1989	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
May 12, 1989	RESPONSE RECEIVED TO POST REG. ACTION	
Apr. 18, 1989	POST REGISTRATION ACTION MAILED - SEC. 8 & 15	
Dec. 30, 1988	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jan. 11, 1983	REGISTERED-PRINCIPAL REGISTER	
Oct. 19, 1982	PUBLISHED FOR OPPOSITION	
Sep. 07, 1982	NOTICE OF PUBLICATION	
Jan. 05, 1982	NON-FINAL ACTION MAILED	
Sep. 16, 1981	ASSIGNED TO EXAMINER	
Mar. 25, 1981	ASSIGNED TO EXAMINER	

**Maintenance Filings or Post Registration Information****Affidavit of Continued Use:** Section 8 - Accepted**Affidavit of Incontestability:** Section 15 - Accepted**Renewal Date:** Jan. 11, 2003**TM Staff and Location Information****TM Staff Information - None****File Location****Current Location:** SCANNING ON DEMAND**Date in Location:** Apr. 11, 2008**Assignment Abstract of Title Information****Conveyance Filter****Summary****Total Assignments:** 5**Registrant:** Stern's Nurseries, Inc.

STATUS DOCUMENTS

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Mark: MIRACLE-GRO GARDEN WEED PREVENTER

MIRACLE-GRO GARDEN WEED PREVENTER

US Serial Number: 76027638

Application Filing Date: Apr. 14, 2000

US Registration Number: 2618699

Registration Date: Sep. 10, 2002

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Sep. 21, 2012

Publication Date: Sep. 18, 2001

Notice of Allowance Date: Dec. 11, 2001

**Mark Information**

expand all

Mark Literal Elements: MIRACLE-GRO GARDEN WEED PREVENTER

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Disclaimer: "GARDEN WEED PREVENTER"

**Related Properties Information**Claimed Ownership of US 1842586, 2345472, and others

Registrations:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: Fertilizers for domestic use

International Class: 001 - Primary Class

U.S Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 01, 2001

Use in Commerce: Mar. 01, 2001

For: Herbicides for domestic use

International Class: 005 - Primary Class

U.S Class: 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 01, 2001

Use in Commerce: Mar. 01, 2001

**Basis Information (Case Level)**

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

**Current Owner(s) Information**

**Owner Name:** OMS Investments, Inc.

**Owner Address:** 10250 Constellation Boulevard  
Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

### Attorney/Correspondence Information

#### Attorney of Record

**Attorney Name:** John Gary Maynard, III

**Docket Number:** U.S. Reg. No

#### Correspondent

**Correspondent Name/Address:** John Gary Maynard, III  
Hunton & Williams LLP  
951 East Byrd Street  
Riverfront Plaza - East Tower  
Richmond, VIRGINIA 23219-4074  
UNITED STATES

**Phone:** 804-788-8772

**Fax:** 804-344-7999

**Correspondent e-mail:** [HWRITM@hunton.com](mailto:HWRITM@hunton.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

### Prosecution History

Date	Description	Proceeding Number
Sep. 21, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Sep. 21, 2012	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	76293
Sep. 21, 2012	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	76293
Sep. 21, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76293
Sep. 07, 2012	TEAS SECTION 8 & 9 RECEIVED	
Jul. 22, 2010	NOTICE OF SUIT	
Sep. 30, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	69934
Sep. 23, 2008	ASSIGNED TO PARALEGAL	69934
Sep. 18, 2008	TEAS SECTION 8 & 15 RECEIVED	
Oct. 04, 2007	CASE FILE IN TICRS	
Sep. 10, 2002	REGISTERED-PRINCIPAL REGISTER	
Jun. 12, 2002	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 10, 2002	STATEMENT OF USE PROCESSING COMPLETE	
May 29, 2002	USE AMENDMENT FILED	
Dec. 11, 2001	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 18, 2001	PUBLISHED FOR OPPOSITION	
Aug. 29, 2001	NOTICE OF PUBLICATION	
May 03, 2001	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 01, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 22, 2000	NON-FINAL ACTION MAILED	
Sep. 18, 2000	ASSIGNED TO EXAMINER	60740

### Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

**Renewal Date:** Sep. 10, 2012

### TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** Not Found

**Date in Location:** Sep. 21, 2012

STATUS DOCUMENTS

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Mark: MIRACLE-GRO



US Serial Number: 76496455

Application Filing Date: Mar. 04, 2003

US Registration Number: 2820953

Registration Date: Mar. 09, 2004

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Mar. 26, 2010

Publication Date: Dec. 16, 2003

**Mark Information**[expand all](#)

Mark Literal Elements: MIRACLE-GRO

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a green leaf dotting the "i" in "MIRACLE-GRO" and a yellow ring in the bullseye.

Design Search Code(s): 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches  
05.03.25 - Leaf, single; Other leaves  
21.03.12 - Dart boards; Targets without crosshairs or alignment guides  
26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles  
26.01.21 - Circles that are totally or partially shaded.  
27.03.04 - Plants forming letters or numerals

**Related Properties Information**

Claimed Ownership of US [0668868](#), [1051605](#), [1223038](#), [2345472](#), [2525828](#), [2580976](#), [2601682](#), [2618698](#), [2618699](#), and others  
Registrations:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells

International Class: 001 - Primary Class

U.S. Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 1997

Use in Commerce: Jan. 1997

For: Herbicides for domestic use

International Class: 005 - Primary Class

U.S. Class: 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: 2000

Use in Commerce: 2000

For: Garden feeders, namely, containers designed to hold plant food and are used to feed and water plants

International Class: 021 - Primary Class

U.S Class: 002, 013, 023, 029, 030, 033, 040, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 2000

Use in Commerce: Dec. 31, 2000

For: Sphagnum peat moss

International Class: 031 - Primary Class

U.S Class: 001, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 2001

Use in Commerce: Jan. 2001

#### Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

#### Current Owner(s) Information

Owner Name: OMS Investments, Inc.

Owner Address: 10250 Constellation Blvd. , Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

#### Attorney/Correspondence Information

##### Attorney of Record

Attorney Name: Susan E. Hollander, Esq.

Docket Number: 28405-030-70

##### Correspondent

Correspondent Susan E. Hollander, Esq.

Name/Address: Manatt, Phelps & Phillips, LLP  
1001 Page Mill Road, Bldg. 2  
Palo Alto, CALIFORNIA 94304  
UNITED STATES

Phone: 650-812-1300

Fax: 650-213-0260

Correspondent e-mail: [patrademarks@manatt.com](mailto:patrademarks@manatt.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

#### Prosecution History

Date	Description	Proceeding Number
Jul. 22, 2010	NOTICE OF SUIT	
Mar. 26, 2010	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	71378
Mar. 26, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	71378
Mar. 09, 2010	TEAS SECTION 8 & 15 RECEIVED	
Aug. 05, 2008	NOTICE OF SUIT	

Jun. 17, 2008	NOTICE OF SUIT	
Mar. 09, 2004	REGISTERED-PRINCIPAL REGISTER	
Dec. 16, 2003	PUBLISHED FOR OPPOSITION	
Nov. 26, 2003	NOTICE OF PUBLICATION	
Sep. 25, 2003	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 11, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 07, 2003	CASE FILE IN TICRS	
Aug. 11, 2003	PAPER RECEIVED	
Jun. 27, 2003	NON-FINAL ACTION MAILED	
Jun. 25, 2003	ASSIGNED TO EXAMINER	60997

**Maintenance Filings or Post Registration Information**

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

**TM Staff and Location Information**

TM Staff Information - None

**File Location**

Current Location: TMEG LAW OFFICE 106

Date in Location: Mar. 26, 2010

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Mark: MIRACLE-GRO



US Serial Number: 76496458

Application Filing Date: Mar. 04, 2003

US Registration Number: 2822655

Registration Date: Mar. 16, 2004

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Mar. 10, 2010

Publication Date: Dec. 23, 2003

**Mark Information**[expand all](#)

Mark Literal Elements: MIRACLE-GRO

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a leaf dotting the "i" in "MIRACLE-GRO" and a ring in the bullseye.

Design Search Code(s): 05.03.25 - Leaf, single;Other leaves

21.03.12 - Dart boards;Targets without crosshairs or alignment guides

26.01.17 - Circles, two concentric;Two concentric circles;Concentric circles, two

26.01.21 - Circles that are totally or partially shaded.

27.03.04 - Plants forming letters or numerals

**Related Properties Information**Claimed Ownership of US [0668868](#), [1051605](#), [1223038](#), [2345472](#), [2525828](#), [2580976](#), [2601682](#), [2618698](#), [2618699](#), and others

Registrations:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

For: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells

International Class: 001 - Primary Class

U.S Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 1997

Use in Commerce: Jan. 1997

For: Herbicides for domestic use

International Class: 005 - Primary Class

U.S Class: 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: 2000

Use in Commerce: 2000



For: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants

International Class: 021 - Primary Class

U.S. Class: 002, 013, 023, 029, 030, 033, 040, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 2000

Use in Commerce: Dec. 31, 2000

For: Sphagnum peat moss

International Class: 031 - Primary Class

U.S. Class: 001, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 2001

Use in Commerce: Jan. 2001

### Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

### Current Owner(s) Information

Owner Name: OMS INVESTMENTS, INC.

Owner Address: 10250 Constellation Blvd., Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

### Attorney/Correspondence Information

#### Attorney of Record

Attorney Name: Susan E. Hollander, Esq.

Docket Number: 28405-030-69

#### Correspondent

Correspondent Susan E. Hollander, Esq.

Name/Address: Manatt, Phelps & Phillips, LLP  
1001 Page Mill Road, Bldg. 2  
Palo Alto, CALIFORNIA 94304  
UNITED STATES

Phone: 65-0812-1300

Fax: 650-213-0260

Correspondent e-mail: [patrademarks@manatt.com](mailto:patrademarks@manatt.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
Jul. 22, 2010	NOTICE OF SUIT	
Mar. 10, 2010	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	77315
Mar. 10, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Feb. 24, 2010	TEAS SECTION 8 & 15 RECEIVED	
Mar. 16, 2004	REGISTERED-PRINCIPAL REGISTER	
Dec. 23, 2003	PUBLISHED FOR OPPOSITION	
Dec. 03, 2003	NOTICE OF PUBLICATION	

Sep. 22, 2003	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 11, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Sep. 07, 2003	CASE FILE IN TICRS	
Aug. 11, 2003	PAPER RECEIVED	
Jun. 27, 2003	NON-FINAL ACTION MAILED	
Jun. 25, 2003	ASSIGNED TO EXAMINER	60997

**Maintenance Filings or Post Registration Information****Affidavit of Continued Use:** Section 8 - Accepted**Affidavit of Incontestability:** Section 15 - Accepted**TM Staff and Location Information****TM Staff Information - None****File Location****Current Location:** TMEG LAW OFFICE 106**Date in Location:** Mar. 10, 2010

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STATUS DOCUMENTS

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Mark: MIRACLE-GRO ORGANIC CHOICE



US Serial Number: 78782928

Application Filing Date: Dec. 30, 2005

US Registration Number: 3180531

Registration Date: Dec. 05, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jun. 12, 2012

Publication Date: Sep. 19, 2006

**Mark Information**[expand all](#)

Mark Literal Elements: MIRACLE-GRO ORGANIC CHOICE

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "ORGANIC"

Design Search Code(s): 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches

05.05.25 - Iris (flower);Daffodils;Other flowers

26.01.17 - Circles, two concentric;Concentric circles, two;Two concentric circles

26.01.21 - Circles that are totally or partially shaded.

**Related Properties Information**Claimed Ownership of US [1223038](#), [2820953](#), [2978064](#), and others

Registrations:

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Fertilizers for domestic use, potting soil, blood meal, and bone meal

International Class: 001 - Primary Class

U.S Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 31, 2003

Use in Commerce: Mar. 31, 2003

**Basis Information (Case Level)**

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

**Current Owner(s) Information**

**Owner Name:** OMS Investments, Inc.

**Owner Address:** 10250 Constellation Blvd., Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where  
Organized:** DELAWARE

### Attorney/Correspondence Information

#### Attorney of Record

**Attorney Name:** John Gary Maynard, III

**Docket Number:** 28405

#### Correspondent

**Correspondent Name/Address:** John Gary Maynard, III  
Hunton & Williams LLP  
951 East Byrd Street  
Riverfront Plaza - East Tower  
Richmond, VIRGINIA 23219-4074  
UNITED STATES

**Phone:** 804-788-8772

**Fax:** 804-344-7999

**Correspondent e-mail:** [HWRITM@hunton.com](mailto:HWRITM@hunton.com)

**Correspondent e-mail Yes  
Authorized:**

**Domestic Representative - Not Found**

### Prosecution History

Date	Description	Proceeding Number
Jun. 12, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Jun. 12, 2012	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67723
Jun. 12, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723
Jun. 01, 2012	TEAS SECTION 8 & 15 RECEIVED	
Jul. 22, 2010	NOTICE OF SUIT	
Dec. 05, 2006	REGISTERED-PRINCIPAL REGISTER	
Sep. 19, 2006	PUBLISHED FOR OPPOSITION	
Aug. 30, 2006	NOTICE OF PUBLICATION	
Jul. 26, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	68658
Jul. 21, 2006	ASSIGNED TO LIE	68658
Jul. 13, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 13, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jul. 10, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jul. 10, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 26, 2006	NON-FINAL ACTION E-MAILED	6325
Jun. 26, 2006	NON-FINAL ACTION WRITTEN	74784
Jun. 23, 2006	ASSIGNED TO EXAMINER	74784
Jan. 06, 2006	NOTICE OF DESIGN SEARCH CODE MAILED	
Jan. 05, 2006	NEW APPLICATION ENTERED IN TRAM	

### Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

### TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** TMEG LAW OFFICE 103

**Date in Location:** Jun. 12, 2012

STATUS DOCUMENTS

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Mark: EARTHGRO

US Serial Number: 73548582

Application Filing Date: Jul. 17, 1985

US Registration Number: 1378721

Registration Date: Jan. 21, 1986

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Jan. 15, 2006

Publication Date: Oct. 29, 1985

**Mark Information**

expand all

Mark Literal Elements: EARTHGRO

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: COW MANURE, COMPOSTED COW MANURE, DEHYDRATED COW MANURE, POTTING SOIL

International Class: 001 - Primary Class

U.S Class: 001, 010

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 1981

Use in Commerce: Aug. 1981

**Basis Information (Case Level)**

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

**Current Owner(s) Information**

Owner Name: OMS INVESTMENTS, INC.

Owner Address: SUITE 2800  
10250 CONSTELLATION BLVD.  
LOS ANGELES, CALIFORNIA 90067  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

**Attorney/Correspondence Information**

Attorney of Record - None

**Correspondent**

**Correspondent Name/Address:** CORY M AMRON  
VORYS SATER SEYMOUR & PEASE LLP  
1828 L ST NW 11TH FL  
WASHINGTON, DISTRICT OF COLUMBIA 20036  
UNITED STATES

**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Jul. 22, 2010	NOTICE OF SUIT	
Jun. 10, 2008	CASE FILE IN TIGRS	
Jan. 15, 2006	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	65765
Jan. 15, 2006	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Jan. 12, 2006	ASSIGNED TO PARALEGAL	65765
Dec. 05, 2005	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Dec. 05, 2005	PAPER RECEIVED	
Apr. 27, 1992	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Jan. 21, 1992	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jan. 21, 1986	REGISTERED-PRINCIPAL REGISTER	
Oct. 29, 1985	PUBLISHED FOR OPPOSITION	
Oct. 01, 1985	NOTICE OF PUBLICATION	
Sep. 06, 1985	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 05, 1985	ASSIGNED TO EXAMINER	60740

**Maintenance Filings or Post Registration Information****Affidavit of Continued Use:** Section 8 - Accepted**Affidavit of Incontestability:** Section 15 - Accepted**Renewal Date:** Jan. 21, 2006**TM Staff and Location Information****TM Staff Information - None****File Location****Current Location:** SCANNING ON DEMAND**Date in Location:** Jun. 10, 2008**Assignment Abstract of Title Information****Conveyance Filter****Summary****Total Assignments:** 6**Registrant:** EARTHGRO, INC.

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Mark: GARDEN GRO

GARDEN GRO

US Serial Number: 76653762

Application Filing Date: Jan. 19, 2006

US Registration Number: 3917281

Registration Date: Feb. 08, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Feb. 08, 2011

Publication Date: Aug. 28, 2007

Notice of Allowance Date: Nov. 20, 2007

## Mark Information

expand all

Mark Literal Elements: GARDEN GRO

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "GARDEN"

## Goods and Services

## Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: fertilizers

International Class: 001 - Primary Class

U.S Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 09, 2008

Use in Commerce: Feb. 09, 2008

## Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

## Current Owner(s) Information

Owner Name: OMS INVESTMENTS, INC.

Owner Address: 10250 Constellation Blvd., Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where  
Organized: DELAWARE

## Attorney/Correspondence Information

## Attorney of Record

Attorney Name: John Gary Maynard, III

## Correspondent

**Correspondent** John Gary Maynard, III  
**Name/Address:** Hunton & Williams LLP  
 951 East Byrd Street  
 Riverfront Plaza - East Tower  
 Richmond, VIRGINIA 23219-4074  
 UNITED STATES

**Phone:** 804-788-8772

**Fax:** 804-344-7999

**Correspondent e-mail:** [HWRITM@hunton.com](mailto:HWRITM@hunton.com)

**Correspondent e-mail** Yes  
**Authorized:**

**Domestic Representative - Not Found**

### Prosecution History

Date	Description	Proceeding Number
Apr. 13, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Apr. 13, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Feb. 08, 2011	REGISTERED-PRINCIPAL REGISTER	
Jan. 07, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jan. 06, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	73296
Jan. 06, 2011	ASSIGNED TO LIE	73296
Dec. 10, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 26, 2010	STATEMENT OF USE PROCESSING COMPLETE	70565
Nov. 20, 2010	USE AMENDMENT FILED	70565
Nov. 22, 2010	TEAS STATEMENT OF USE RECEIVED	
Apr. 20, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Apr. 19, 2010	EXTENSION 5 GRANTED	70565
Apr. 15, 2010	EXTENSION 5 FILED	70565
Apr. 15, 2010	TEAS EXTENSION RECEIVED	
Oct. 20, 2009	EXTENSION 4 GRANTED	70565
Oct. 06, 2009	EXTENSION 4 FILED	70565
Oct. 20, 2009	CASE ASSIGNED TO INTENT TO USE PARALEGAL	70565
Oct. 06, 2009	TEAS EXTENSION RECEIVED	
Apr. 29, 2009	EXTENSION 3 GRANTED	98765
Apr. 29, 2009	EXTENSION 3 FILED	98765
Apr. 29, 2009	TEAS EXTENSION RECEIVED	
Oct. 10, 2008	EXTENSION 2 GRANTED	98765
Oct. 10, 2008	EXTENSION 2 FILED	98765
Oct. 10, 2008	TEAS EXTENSION RECEIVED	
May 09, 2008	EXTENSION 1 GRANTED	98765
May 09, 2008	EXTENSION 1 FILED	98765
May 09, 2008	TEAS EXTENSION RECEIVED	
Nov. 20, 2007	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Aug. 28, 2007	PUBLISHED FOR OPPOSITION	
Aug. 08, 2007	NOTICE OF PUBLICATION	
May 21, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	76538
May 18, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 24, 2007	ASSIGNED TO EXAMINER	83190
Jan. 24, 2007	AMENDMENT FROM APPLICANT ENTERED	76538
Dec. 26, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	76538
Jan. 24, 2007	ASSIGNED TO LIE	76538
Dec. 26, 2006	PAPER RECEIVED	
Jun. 27, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
Jun. 27, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jun. 26, 2006	NON-FINAL ACTION MAILED	



Jun. 23, 2006	NON-FINAL ACTION WRITTEN	74784
Jun. 23, 2006	ASSIGNED TO EXAMINER	74784
Feb. 04, 2006	APPLICATION FILING RECEIPT MAILED	
Jan. 31, 2006	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information****TM Staff Information - None****File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:** Jan. 06, 2011

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Mark: IT'S GRO TIME

IT'S GRO TIME

US Serial Number: 77341556

Application Filing Date: Nov. 30, 2007

US Registration Number: 3828745

Registration Date: Aug. 03, 2010

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Aug. 03, 2010

Publication Date: Apr. 15, 2008

Notice of Allowance Date: Jul. 08, 2008

**Mark Information**[expand all](#)

Mark Literal Elements: IT'S GRO TIME

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Soil amendments, soil conditioners, and soil improving agents for domestic use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam

International Class: 001 - Primary Class

U.S Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 2008

Use in Commerce: Feb. 2008

**Basis Information (Case Level)**

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

**Current Owner(s) Information**

Owner Name: OMS Investments, Inc.

Owner Address: 10250 Constellation Blvd., Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where  
Organized: DELAWARE

**Attorney/Correspondence Information****Attorney of Record**

Attorney Name: Susan E. Hollander

Docket Number: 28405-045

**Correspondent**

**Correspondent** SUSAN E. HOLLANDER  
**Name/Address:** MANATT, PHELPS & PHILLIPS, LLP  
 1001 PAGE MILL RD BLDG 2  
 PALO ALTO, CALIFORNIA 94304-1008  
 UNITED STATES

**Phone:** 650-812-1300

**Fax:** 650-213-0260

**Correspondent e-mail:** [patrademarks@manatt.com](mailto:patrademarks@manatt.com)

**Correspondent e-mail No**  
**Authorized:**

**Domestic Representative - Not Found**

### Prosecution History

Date	Description	Proceeding Number
Aug. 03, 2010	REGISTERED-PRINCIPAL REGISTER	
Jun. 29, 2010	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jun. 28, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	77312
Jun. 28, 2010	ASSIGNED TO LIE	77312
Jun. 15, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
May 25, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
May 24, 2010	STATEMENT OF USE PROCESSING COMPLETE	70565
May 21, 2010	USE AMENDMENT FILED	70565
May 24, 2010	EXTENSION 4 GRANTED	70565
May 21, 2010	EXTENSION 4 FILED	70565
May 21, 2010	TEAS EXTENSION RECEIVED	
May 21, 2010	TEAS STATEMENT OF USE RECEIVED	
Jan. 08, 2010	EXTENSION 3 GRANTED	70565
Jan. 06, 2010	EXTENSION 3 FILED	70565
Jan. 06, 2010	TEAS EXTENSION RECEIVED	
Jul. 13, 2009	EXTENSION 2 GRANTED	70565
Jun. 17, 2009	EXTENSION 2 FILED	70565
Jul. 13, 2009	CASE ASSIGNED TO INTENT TO USE PARALEGAL	70565
Jun. 17, 2009	TEAS EXTENSION RECEIVED	
Dec. 03, 2008	EXTENSION 1 GRANTED	98765
Dec. 03, 2008	EXTENSION 1 FILED	98765
Dec. 03, 2008	TEAS EXTENSION RECEIVED	
Jul. 08, 2008	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 15, 2008	PUBLISHED FOR OPPOSITION	
Mar. 26, 2008	NOTICE OF PUBLICATION	
Mar. 11, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	78413
Mar. 11, 2008	ASSIGNED TO LIE	78413
Feb. 15, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 11, 2008	ASSIGNED TO EXAMINER	82429
Dec. 06, 2007	NOTICE OF PSEUDO MARK MAILED	
Dec. 05, 2007	NEW APPLICATION ENTERED IN TRAM	

### TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Jun. 28, 2010

STATUS DOCUMENTS

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Mark: EXPAND 'N GRO

EXPAND 'N GRO

US Serial Number: 77907119

Application Filing Date: Jan. 07, 2010

US Registration Number: 4049881

Registration Date: Nov. 01, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Nov. 01, 2011

Publication Date: Apr. 27, 2010

Notice of Allowance Date: Jun. 22, 2010

**Mark Information**[expand all](#)

Mark Literal Elements: EXPAND 'N GRO

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

**Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: Potting soil; planting soil; growing media for plants; soil amendments and conditioners; plant food; fertilizers

International Class: 001 - Primary Class

U.S Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 14, 2011

Use in Commerce: Mar. 14, 2011

**Basis Information (Case Level)**

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

**Current Owner(s) Information**

Owner Name: OMS Investments, Inc.

Owner Address: 10250 Constellation Blvd., Suite 2800  
Los Angeles, CALIFORNIA 90067  
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

**Attorney/Correspondence Information****Attorney of Record**

Attorney Name: John Gary Maynard, III

Docket Number: 77730.2

**Correspondent**

**Correspondent** John Gary Maynard, III  
**Name/Address:** Hunton & Williams LLP  
951 East Byrd Street  
Riverfront Plaza, East Tower  
Richmond, VIRGINIA 23219-4074  
UNITED STATES

**Phone:** 804-788-8772

**Fax:** 804-344-7999

**Correspondent e-mail:** [hwritm@hunton.com](mailto:hwritm@hunton.com)

**Correspondent e-mail No**  
**Authorized:**

**Domestic Representative - Not Found**

### Prosecution History

Date	Description	Proceeding Number
Nov. 01, 2011	REGISTERED-PRINCIPAL REGISTER	
Sep. 27, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Sep. 24, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	70633
Sep. 16, 2011	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 25, 2011	STATEMENT OF USE PROCESSING COMPLETE	61813
Aug. 23, 2011	USE AMENDMENT FILED	61813
Aug. 23, 2011	TEAS STATEMENT OF USE RECEIVED	
Jul. 02, 2011	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jul. 01, 2011	EXTENSION 2 GRANTED	61813
Jun. 22, 2011	EXTENSION 2 FILED	61813
Jun. 27, 2011	CASE ASSIGNED TO INTENT TO USE PARALEGAL	61813
Jun. 22, 2011	TEAS EXTENSION RECEIVED	
Mar. 22, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Mar. 22, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 16, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Oct. 14, 2010	EXTENSION 1 GRANTED	98765
Oct. 14, 2010	EXTENSION 1 FILED	98765
Oct. 14, 2010	TEAS EXTENSION RECEIVED	
Jun. 22, 2010	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 27, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Apr. 27, 2010	PUBLISHED FOR OPPOSITION	
Mar. 19, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	70633
Mar. 19, 2010	ASSIGNED TO LIE	70633
Mar. 02, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 01, 2010	ASSIGNED TO EXAMINER	78067
Jan. 14, 2010	NOTICE OF PSEUDO MARK MAILED	
Jan. 13, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 11, 2010	NEW APPLICATION ENTERED IN TRAM	

### TM Staff and Location Information

**TM Staff Information - None**

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Sep. 24, 2011